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RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

This communication is in response to the Notification of Non-Compliant Appeal Brief, mailed December 15, 2008.

The Notification of Non-Compliant Appeal Brief indicates that the Appeal Brief originally filed on November 18, 2008, was defective because the brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal.

As noted by the Examiner and for reasons stated in MPEP 1205.03(B), a submission of an entire new brief is not required to correct the issues stated in the Notification of Non-Compliant Appeal Brief. Thus, Appellants are submitting replacement sections V.-VII that are in compliance with the Notification of Non-Compliant Appeal Brief. Newly submitted sections V.-VII correctly reference independent claim 24 rather than cancelled claim 1, as was inadvertently done in the non-compliant Appeal Brief.

V. Summary of Claimed Subject Matter

In general, embodiments of the claimed invention are directed towards generating a mapping of events occurring at different types of data source equipment around a global supply chain. The types of data source equipment include radio frequency identification (RFID) readers or bar code readers that read data from tags or barcodes. (e.g., Specification, ¶ [0023].) The claimed invention includes a system in a supply chain network that comprises one or more site data appliances that comprise of one or more types of data source equipment. (e.g., Specification, ¶ [0025].) The one or more site data appliances are configured to use a protocol to collect specification information, including event information, from the one or more types of data source equipment. (e.g., Specification, ¶¶ [0025]-[0026].) The specification information forms a Description Document. (e.g., Specification, ¶ [0068].) The system also includes one or more site servers coupled to one or more site data appliances that are configured to gather the specification information forming the Description Document from the one or more site data appliances. (e.g., Specification, ¶ [0058].) The system further includes a data center coupled to the one or more site servers configured to automatically generate a mapping table based on the Description Document, which maps the event information of the one or more site data appliances to event handlers for execution in response to an event. (e.g., Specification, ¶ [0083].)

Claim 24: A system in a supply chain network, the system comprising (e.g., Specification, ¶ [0009]):

- one or more site data appliances (e.g., Specification ¶ [0025]) comprising one or more types of data source equipment, the one or more site data appliances configured to use a protocol (e.g., Specification ¶¶ [0025] and [0029]) to collect specification information (e.g., Specification ¶ [0011]), including event information (e.g., Specification ¶¶ [0026] and [0028]), from the one or more types of data source equipment, the specification information forming a Description Document (e.g., Specification ¶¶ [0068]-[0069]);
- one or more site servers coupled to one or more site data appliances configured to gather the specification information forming the Description Document from the one or more site data appliances (e.g., Specification, ¶ [0058]); and
- a data center coupled to the one or more site servers configured to automatically generate a mapping table based on the Description Document (e.g., Specification, ¶ [0025]), which maps the event information, of the one or more site data appliances, to event handlers for execution in response to an event (e.g., Specification, ¶¶ [0011] and [0083]).

Claim 31: A method in a supply chain network, the method comprising the steps of (e.g., Specification, ¶ [0023]):

- collecting specification information (e.g., Specification ¶ [0011]), including event information (e.g., Specification ¶ [0026]), from one or more types of data source equipment (e.g., Specification ¶ [0025]) at one or more site data appliances using a protocol (e.g., Specification ¶¶ [0025] and [0029]) to form a Description Document (e.g., Specification, ¶¶ [0068]-[0069]);
- gathering the specification information forming the Description Document from the one or more site data appliances at one or more site servers (e.g., Specification, ¶ [0058]); and
- automatically generating a mapping table based on the description document, which maps the event information, of the one or more data appliances, to event handlers for execution in response to an event (e.g., Specification, ¶¶ [0011] and [0083]).

Claim 38: A method in a supply chain network, comprising (e.g., Specification, ¶ [0009]):

- creating a Description Document comprising specification information from one or more types of data source equipment using extensible markup language (XML) (e.g., Specification, ¶ [0068]), the specification information comprising information about events that each of the one or more types of data source equipment is capable of generating (e.g., Specification, ¶ [0071]);
- sending the Description Document to a data center, wherein the data center generates a mapping table based on the Description Document to map events with event handlers (e.g., Specification, ¶¶ [0011] and [0083]); and
- receiving the mapping table (e.g., Specification, ¶¶ [0083]-[0084]) at a site server (e.g., Specification, ¶ [0011]) associated with the one or more types of data source equipment; and

executing an event handler responsive to receiving an event generated by the one or more types of data source equipment (e.g., Specification, ¶ [0011]).

Claim 39: A computer program product, comprising:

- a computer-readable medium having computer program logic embodied therein for, in a supply chain network (e.g., Specification, ¶¶ [0085] and [0009]):
 - collecting specification information (e.g., Specification ¶ [0011]), including event information (e.g., Specification ¶ [0026]), from one or more types of data source equipment (e.g., Specification ¶ [0025]) at one or more site data appliances using a protocol (e.g., Specification ¶¶ [0025] and [0029]) to form a Description Document (e.g., Specification, ¶¶ [0068]-[0069]);
 - gathering the specification information forming the Description Document from the one or more site data appliances at one or more site servers (e.g., Specification, ¶ [0058]); and
 - automatically generating a mapping table based on the description document, which maps the event information, of the one or more data appliances, to event handlers for execution in response to an event (e.g., Specification, ¶¶ [0011] and [0083]).

Claim 46: A system in a supply chain network for configuring asset tracking, the system comprising (e.g., Specification, ¶ [0009]):

- a plurality of types of automated data source equipment (e.g., Specification, ¶ [0009]), each data source equipment having associated specification information for communicating with the system and event information for providing data to the system (e.g., Specification, ¶¶ [0011] and [0068]-[0069];
- one or more site data appliances (e.g., Specification, ¶ [0009]), coupled to the automated data source equipment, the one or more site data appliances to collect specification information and event information, from the automated data source equipment (e.g., Specification, ¶ [0011]);
- one or more site servers, coupled to one or more site data appliances, to generate a description document comprising the specification information from the one or more site data appliances (e.g., Specification, ¶ [0058]); and
- a data center, coupled to the one or more site servers (e.g., Specification, ¶ [0025]) configured to automatically generate a mapping table, which maps the event information, of the one or more site data appliances, to event handlers in the description document for execution in response to an event, wherein the one or more site servers execute events in accordance with the description document (e.g., Specification, ¶¶ [0011] and [0083]).

VI. Grounds of Rejection to be Reviewed on Appeal

The grounds of rejection presented for review in the instant appeal are as follows:

1. Whether the Final Office Action dated April 18, 2008 was improperly made final.

2. Whether claims 24, 31, 38-39 and 46 are unpatentable under 35 U.S.C. § 103(a) over Tantry in view of Friedman.

VII. Argument

Improper Final Action – Unaddressed Claim Limitations

Appellants submit that the Office Action dated April 18, 2008 was improperly made final, as several claim elements were not addressed by the Office Action (nor have they ever been addressed); this error “affects applicant’s ability to reply to the Office action.” MPEP 710.06. Specifically, the Examiner’s omnibus rejection of the claims entirely, and improperly, ignored several limitations present in the claims. See MPEP 707.07(d) “A plurality of claims should never be grouped together in a common rejection, unless that rejection is **equally applicable** to all claims in the group.” (emphasis added)

Specifically, the following limitations were not addressed: (1) independent claims 31, 39 – “**collecting** specification information...from one or more types of data source equipment ... to form a Description Document” and “**gathering** the specification information forming the Description Document from the one or more site data appliances at one or more site servers,” independent claim 38 – “**creating** a Description Document comprising ... specification information comprising information about events that each of the one or more types of data source equipment is **capable of generating**,” independent claim 46 – “a **plurality of types of** automated data source equipment”; (2) dependent claims 25, 32, 40 “wherein the data center **sends the mapping of the event information to the one or more site servers**,” dependent claims 27, 34, 42 “**a portable device** ... to access an instance of the Description Document,” and dependent claims 28, 35, 43 “wherein the specification information further comprises **method and property information**.”

In the Advisory Action dated July 17, 2008 (“AA 7/17/08”), the Examiner responded to Appellants’ itemization of the unaddressed claim limitations, *inter alia*, that since the cited references allegedly show the Description Document, they “would have had to collect, gather, organize or generate the specification information,” and cites 37 C.F.R. 1.104(c)(2), asserting that “this type of sema[n]tic delineation falls under the realm of what is apparently disclosed” per this section. AA 7/17/08, p. 2, first para.

Appellants are unclear as to why the Examiner cites 37 C.F.R. 1.104(c)(2), which recites: “the examiner must cite the best references at his or her command... the particular part relied on must *be designated as nearly as practicable*,... and *each rejected claim* specified” (emphasis added). Contrary to containing any statements about what is “apparently disclosed,” this section recites **precisely** the requirements with which Appellants assert that the Examiner has not complied. The Examiner’s additional conclusory assertions that “these steps are broad and almost redundant” and the claims are “so broad” that the rejection “is equally applicable to the apparatus and method claims,” does not relieve the Examiner of his obligation to provide complete examination under 37 C.F.R. 1.104. In addition, AA 7/17/08 is only partially responsive to Appellants’ assertions regarding the unaddressed claim limitations. E.g., the Examiner never has addressed the limitation “wherein the data center **sends the mapping of the event information to the one or more site servers**,” as recited in dependent claims 25, 32, and 40.

Appellants note that this is the second Pre-Appeal Brief Request for Review submitted in this case. The first was submitted with the Notice of Appeal filed July 17, 2007 (“Remarks 7/17/07” herein). Appellants note that the deficiencies discussed therein with respect to the omnibus and cursory treatment of the claims never have been remedied by the Examiner.

Indeed, in the six (6) office actions since the Tantry reference was first cited in the Office Action dated July 13, 2005, the Examiner has never once separately addressed even the various independent claims, nor cited a column and line number within Tantry in support of his assertions. The rejection of the 22 pending claims with respect to Tantry never has exceeded 10 lines of text.

Thus, Appellants submit that not all limitations of the pending claims have been addressed, which substantially affects the Appellants' ability to properly respond thereto. In the interest of further prosecution, Appellants have attempted to address the Examiner's rejections below based on the limited information provided.

Claims 24, 31, 38-39 and 46 are patentable over Tantry in view of Friedman.

To establish a prima facie case of obviousness, the prior art reference (or references when combined) must suggest or teach *all* the limitations of the claimed invention. See *In re Royka*, 490 F.2d 981 (C.C.P.A. 1974); 35 U.S.C. §103(a); MPEP §§ 706.02(j), 2143.03. If even a single claim limitation is not taught or suggested by the prior art, then that claim cannot be rejected under § 103 over the prior art. See *In re Glass*, 472 F.2d 1388, 1392 (C.C.P.A. 1973). The Examiner's rejection of claims 24, 31, 38-39, and 46 is improper because the suggested combination of Tantry in view of Friedman does not teach or suggest all of the limitations of the rejected claims.

Independent claim 24 recites a system in a supply chain network, the system comprising:

- one or more site data appliances comprising one or more types of data source equipment, the one or more site data appliances configured to use a protocol to collect specification information, including event information, from the one or more types of data source equipment, the specification information forming a Description Document;
- one or more site servers coupled to one or more site data appliances configured to gather the specification information forming the

Description Document from the one or more site data appliances;
and
a data center coupled to the one or more site servers configured to
automatically generate a mapping table based on the Description
Document, which maps the event information, of the one or more
site data appliances, to event handlers for execution in response to
an event.

These aspects of the claimed invention are not disclosed by Tantry or Friedman, alone or
in the combination suggested by the Examiner.

Specifically, Tantry does not disclose “a data center ... configured to automatically
generate a mapping table....” The Examiner points only to Tantry’s database (66)
corresponding to this element. However, a data center is clearly defined in the Appellants’
specification as “a data *processing* system” (*see* para. [0025]) and the claim language explicitly
requires that the data center be “*configured to automatically generate a mapping table.*”

Tantry merely discloses a standard relational database “*storing* a library of factory floor
entitles [sic] modeled as factory objects” (col. 15, ll. 19-20; col. 17, ll. 51-52, (emphasis added)),
i.e., a collection of data or information, which cannot be properly characterized as a structure
that *processes* data. Further, by the Examiner’s own admission, Tantry *does not* show
“automatically generating a mapping table.” As a result, Tantry cannot disclose a data center
that does so. Thus, Tantry’s relational database does not correspond to the claimed “data
center.” The Examiner’s attempt to combine Tantry and Friedman to show this limitation is
discussed further below.

As noted above, the Examiner admits that Tantry does not disclose “automatically
generating a mapping table.” Instead, the Examiner points to Friedman’s Abstract, ll. 13-17 for
this aspect. However, Friedman discloses merely: “... a hierarchical organization that is used

for mapping a particular encountered namespace specification into a unique value that represents both the namespace specification and an element tag in which the namespace specification occurs.” Friedman, Abstract, ll. 13-17.¹ Nowhere does Friedman mention “automatically generating a mapping table, which maps [] event information...to event handlers for execution in response to an event.” Even assuming *arguendo* that Friedman’s “namespace specification” could be seen as equivalent to the “event information” of the claimed invention, Friedman’s “unique value,” or “token,” clearly is not equivalent to the business logic “**event handlers** for execution in response to an event” of the claimed invention. Put simply, a “value” cannot be executed. Thus, Friedman’s *mapping* to such a “unique value” also is not **mapping to “event handlers** for execution in response to an event,” as claimed. Thus, Friedman is deficient to show this aspect of the claimed invention; Friedman’s disclosure of a mapping does not suggest the claimed mapping of “**event information...to event handlers** for execution in response to an event.”

Therefore, the mapping that the Examiner suggests would require a modification of Friedman’s disclosed, established namespace specification-to-token mapping function. However, the Examiner provides no rationale for modifying Friedman in this manner, and thus must be applying improper hindsight reasoning gleaned solely from Appellants’ specification to make this jump in logic. *See* MPEP 2145 (Examiner’s rationale may “not include knowledge gleaned only from applicant’s disclosure”).

The Examiner relies on the combination of Tantry and Friedman to disclose “a data center ... configured to automatically generate a mapping table....”. However, the Examiner’s

¹ Friedman defines namespace and namespace specification, respectively, as follows: “The dictionary of element names defined by a schema is referred to as a “namespace.”” “A namespace specification within an XML

rationale is deficient. As discussed above, Tantry's relational database cannot meet the limitation "a data center ... configured to automatically generate a mapping table." The Examiner admits that Tantry does not disclose "automatically generating a mapping table," and relies on Friedman for this portion of the limitation. This treatment of the references is misplaced in several respects.

First, the Examiner's piecemeal treatment of this claim limitation has rendered it meaningless. The Examiner attempts to combine Tantry's standard relational database, which the Examiner admits does *not* generate a mapping, with Friedman's mapping function, which is accomplished via a namespace hierarchy. This suggested combination imparts functionality to Tantry's database that is not disclosed or suggested as an established function, and/or imparts a structure to Friedman's mapping that is not disclosed or suggested as part of the established mapping function. Thus, the elements of Tantry and Friedman are being used apart from and well beyond their "established functions," such that the "predictability" of the combination is precluded. See *KSR*, 127 S.Ct. 1727, 1739 (2007).

Specifically, neither Tantry nor Friedman, alone or in the suggested combination, show "a data center ...automatically generat[ing] a mapping table based on the Description Document, which maps the event information, of the one or more site data appliances, to event handlers for execution in response to an event." Thus, the discussion above indicates that the claimed invention is "more than a predictable use of [these] prior art elements according to their established functions" under *KSR*. *Id.*

document is said to have a "scope" which includes all child nodes beneath the namespace specification." Friedman, 139-40; 2,12-14.

Further, the Examiner suggests modifying the references in the above-described manner “in order to take advantage of standardized methods.” Office Action at p. 3. However, Tantry teaches away from such modification. Tantry’s software system consists of four levels of functionality, and Tantry’s object-oriented architecture teaches a reliance on a hierarchical tree structure (standard XML). *See, e.g.*, FIG. 8; FIG. 9; col. 20, ll. 17-33.

In contrast, Friedman parses an XML data stream without building a hierarchical tree structure for an XML document (col. 5, ll. 35-40), parsing the XML data stream as received and provides data to the application before the entire XML data stream has been processed by the parser (col. 8, ll. 45-54). Friedman touts this process as advantageous over traditional “XML parsers ... that [] have to build an entire hierarchically structured tree in memory before interpreting the contents of the document” as fostering gains in efficiency. *See* Friedman, col. 3, ll. 45-50. Thus, “incorporate[ing] the XML data stream system of Friedman” with Tantry as suggested by the Examiner (Office Action at p. 3) would remove from Tantry the built hierarchical tree structure its established functionality relies upon. This would improperly render Tantry unsatisfactory for its intended purpose (MPEP 2143.01(V)) and take the respective references’ cited aspects beyond their established functions, such that the “predictability” of the combination is precluded. *See KSR*, 127 S.Ct. 1727, 1739 (2007).

Furthermore, in the Advisory Action, the Examiner asserts that Tantry has a mapping table because it “maps callback routines from equipment to application engine functionality,” and is “merely silent on how the table is formed.” AA 7/17/08, p. 2, second para. First, Appellants note that Tantry does not *recite* any mapping table. Second, claim 1 recites that the mapping table is “**based on** the Description Document.” Assuming, *arguendo*, that the “user interface widget library” shows the Description Document as the Examiner asserts (Office

Action, p. 2), then the mapping table would need to be *based on* the user interface widget library. Tantry's widget library is understood to be a record of what machine worked on which widgets. See Tantry, col. 7, ll. 10-13. Thus, a mapping table based on this information is inconsistent with both the claim language and the Examiner's rationale quoted above with respect to the mapping table.

Appellants note that the Examiner indicated in the Final Office Action dated April 17, 2007, p. 5, that "introduc[ing] the Description Document in the independent claim and link[ing] it to the generation of the mapping table" would overcome the similar rejection of the claims in that action. Appellants subsequently made the suggested amendment, and in response the Examiner stated that specification information, which forms the Description Document, is a "very broad term of 'event information'" and that the "prior art rejection already show[s] generating of a mapping table based on the broad term 'event information.'" (Office Action, pgs. 3-4.) Appellants note that the Description Document is specifically defined in the specification. While the Examiner should apply the broadest *reasonable* interpretation to claim terms, the reasonableness limitation requires that the construction not be so broad so as to conflict with the specification (*see, e.g., In re Buszard* (Fed. Cir. 2007), *discussed at the* Biotechnology/Chemical/Pharmaceutical Customer Partnership, *Broadest Reasonable Interpretation Standard* (J. Gongola, Associ. Solicitor, U.S.P.T.O.), Sept. 9, 2008), and that it be **consistent with** the specification (*see, e.g., MPEP 2111, citing Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005)). Thus, the Examiner's allegations regarding the Description Document are untenable.

Friedman does not remedy these deficiencies, nor does the Examiner argue that it does. As previously discussed, Friedman merely discloses a namespace specification, which cannot

properly be characterized as the claimed “event information” that is included in the “specification information” that forms a “Description Document.”

Thus, the deficient disclosures of these references fail to establish a basis from which a proper determination of obviousness under 35 U.S.C. § 103(a) can be made. Thus, Appellants submit that claim 24 is patentably distinguishable over the cited references.

Independent claims 31, 38, 39, and 46 as presented, although not coextensive in scope, recite similar limitations to those distinguished above over the cited references and thus also are patentably distinguishable for at least the above reasons. Accordingly, Tantry and Friedman, either alone or in combination do not disclose or suggest the specific features of the claimed invention necessary for prima facie obviousness under § 103(a). Appellants therefore respectfully request reconsideration and allowance of the claims.

Respectfully Submitted,
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